

1 Todd M. Schneider (SBN 158253)  
2 Guy B. Wallace (SBN 176151)  
3 Nancy Park (SBN 236750)  
4 SCHNEIDER & WALLACE  
180 Montgomery Street, Suite 2000  
San Francisco, CA 94104  
Telephone: (415) 421-7100  
Facsimile: (415) 421-7105

6 James M. Finberg (SBN 114850)  
7 Eve. H. Cervantez (SBN 164709)  
8 Danielle E. Leonard (SBN 218201)  
9 Claire Prestel (SBN 235649)  
ALTSHULER BERZON LLP  
177 Post St., Suite 300  
San Francisco, CA 94108  
Telephone: (415) 421 - 7151  
Facscimile: (415) 362 - 8064

10 Kelly M. Dermody (SBN 171716)  
11 Dan E. Barenbaum (SBN 209261)  
12 LIEFF, CABRASER, HEIMANN &  
BERNSTEIN, LLP  
13 275 Battery Street, 30th Floor  
San Francisco, CA 94111-3339  
14 Telephone: (415) 956-1000  
Facsimile: (415) 956-1008

15 *Additional Class Counsel appear on  
signature page*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

19 DERRICK SATCHELL, KALINI  
20 BOYKIN, VALERIE BROWN, RICK  
21 GONZALES, CYNTHIA GUERRERO,  
22 RACHEL HUTCHINS, TYRONE  
MERRITT, KELVIN SMITH, SR., and  
KEN STEVENSON, on behalf of  
themselves and all others similarly situated.

23 || Plaintiffs.

24

25 FEDEX EXPRESS, a Delaware corporation.

Defendant.

Case No. C 03-2659 SI; C 03-2878 SI

## CLASS ACTION

**REPLY DECLARATION OF GUY B.  
WALLACE IN SUPPORT OF PLAINTIFFS'  
MOTION IN LIMINE #7 REQUESTING AN  
ADVERSE INFERENCE JURY  
INSTRUCTION REGARDING  
DEFENDANT'S DESTRUCTION OF  
RECORDS THAT ARE RELEVANT TO THE  
CLAIMS OF THE PLAINTIFF CLASS**

Date: March 2, 2007

Time: 9:00 a.m.

Place: Courtroom 10

1 I, Guy Wallace, hereby declare as follows:

2 1. I am an attorney with Schneider & Wallace in San Francisco, California, counsel  
3 of record for Plaintiffs in the above-referenced action. Each of the facts set forth herein is true  
4 and correct within my personal knowledge, and if called and sworn as a witness, I would  
5 competently testify thereto.

6 2. Attached hereto as Exhibit A is a true and correct copy of *Defendant's Response in*  
7 *Opposition to Motion for Relief Pursuant to F.R.C.P. 56(f) and Reply in Support of Motion for*  
8 *Summary Judgment.*

9 3. Attached hereto as Exhibit B is a true and correct copy of *Defendant's Responses*  
10 *to Plaintiffs' Fourth Set of Requests for Production of Documents.*

11 4. Attached hereto as Exhibit C is a true and correct copy of Dr. Drogan's December  
12 20, 2006 Report: *Statistical Analysis of Race and Ethnic Patterns In Federal Express Workforce.*

13 5. Attached hereto as Exhibit D are a true and correct copies of the relevant portions  
14 of the Deposition of Paula Presnoples.

15 6. Attached hereto as Exhibit E is a true and correct copy of Gil Diekmann's October  
16 20, 2004 email to Chimene Keitner, entitled "Satchell-Final Answer to Data Questions."

17 7. Attached hereto as Exhibit F is a true and correct copy of Dr. Drogan's June 30,  
18 2006 Report: *Statistical Analysis of Race and Ethnic Patterns In Federal Express Workforce.*

19 8. Attached hereto as Exhibit G is a true and correct copy of Frederick Douglas's  
20 Occtober 28, 2005 letter to Guy Wallace.

21 I declare under penalty of perjury under the laws of the United States that the foregoing is  
22 true and correct.

23 Executed on this 9th day of February 2007, in San Francisco, California.

24 /s/ Guy Wallace  
25

26 GUY B. WALLACE  
27

1 Todd M. Schneider (SBN 158253)  
 2 Guy B. Wallace (SBN 176151)  
 3 Nancy Park (SBN 236750)  
 SCHNEIDER & WALLACE  
 180 Montgomery Street, Suite 2000  
 San Francisco, CA 94104  
 Telephone: (415) 421-7100  
 Facsimile: (415) 421-7105

6 James M. Finberg (SBN 114850)  
 7 Eve. H. Cervantez (SBN 164709)  
 Danielle E. Leonard (SBN 218201)  
 Claire Prestel (SBN 235649)  
 8 ALTSHULER BERZON LLP  
 177 Post St., Suite 300  
 9 San Francisco, CA 94108  
 Telephone: (415) 421 - 7151  
 10 Facsimile: (415) 362 - 8064

11 Kelly M. Dermody (SBN 171716)  
 12 Dan E. Barenbaum (SBN 209261)  
 LIEFF, CABRASER, HEIMANN &  
 13 BERNSTEIN, LLP  
 275 Battery Street, 30th Floor  
 14 San Francisco, CA 94111-3339  
 Telephone: (415) 956-1000  
 15 Facsimile: (415) 956-1008

16 Waukeen Q. McCoy  
 17 LAW OFFICES OF  
 WAUKEEN Q. MCCOY  
 18 703 Market Street, Suite 1407  
 San Francisco, CA 94103  
 Telephone: (415) 675-7705  
 Facsimile: (415) 675-2320

21 *Class Counsel*

Michael S. Davis (SBN 160045)  
 LAW OFFICES OF MICHAEL S. DAVIS  
 345 Hill Street  
 San Francisco, CA 94109  
 Telephone: (415) 282-4315  
 Facsimile: (415) 358-5576

John L. Burris (SBN 69888)  
 Miles Washington (SBN 88288)  
 LAW OFFICES OF JOHN BURRIS  
 7677 Oakport Bldg., Suite 1120  
 Oakland, CA 94612  
 Telephone: (510) 839-5210  
 Facsimile: (510) 839-3882

Barry Goldstein (SBN 141868)  
 GOLDSTEIN, DEMCHAK, BALLER,  
 BORGEN & DARDARIAN  
 300 Lakeside Drive, Suite 1000  
 Oakland, CA 94612  
 Telephone: (510) 763-9800  
 Facsimile: (510) 835-1417

Kay McKenzie Parker (SBN 143140)  
 225 Bush Street, 16<sup>th</sup> Floor  
 San Francisco, CA 94104  
 Telephone: (415) 227-9622  
 Facsimile: (415) 227-4522